

Bail Slip

The Appellant/Accused was directed to be released on bail as per the order of this Court dated 17.5.2001 and made in Crl.Mp.2733 of 2001 in C.No.416 of 2001.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 26-04-2007

CORAM

THE HONOURABLE MR.JUSTICE S.TAMILVANAN

CRIMINAL APPEAL No.416 of 2001

Parasuraman

... Appellant/Accused

-vs-

State rep by
Inspector of Police
Kodungaiyur Police Station,
Chennai.

... Respondent/Complainant

Criminal Appeal is preferred against the conviction and sentence passed by the VII Additional Sessions Judge, City Civil Court, Chennai in S.C.No.242 of 2000, dated 30.03.2001.

For appellant : Mr.S.Lakshmanasamy
(Amicus Curiae)

For respondent : Mr.Hasan Mohamed Jinnah
Govt. Advocate (crl. side)

J U D G M E N T

This Criminal Appeal is directed against the conviction and sentence imposed in S.C.No.242 of 2000, on the file of the VII Additional Sessions Judge, Chennai.

2. The appellant is the accused before the trial court, who has been found guilty under Sections 498A and 306 IPC. The trial court has sentenced him to undergo six months RI, and to pay a fine of Rs.500/- under each sections, with default sentence.

3. The brief facts of the case are as follows :

The appellant / accused is the husband of the deceased Selvi,

who died on 18.03.1997, by committing suicide. It is not in dispute that the appellant / accused married the deceased on 10.12.1996 and both were living together as husband and wife. As per the prosecution case, the deceased was subjected to cruelty, based on demanding dowry by the appellant / accused. As per the prosecution case, apart from being a drunkard, the appellant / accused, suspecting the fidelity of his wife, used to beat her and due to the harassment met out at the hands of the appellant / accused, the aforesaid Selvi committed suicide, by way of hanging herself at her matrimonial home. In support of the prosecution case, 11 witnesses, including the mother of the deceased were examined and documents Exs.P.1 to P.13 were marked. On the side of the accused, D.W.1 and D.W.2 were examined.

4. Considering the oral and documentary evidence and the arguments advanced by both sides, the trial court held that the appellant / accused was guilty under Sections 498A and 306 IPC.

5. According to the learned counsel for the appellant, the prosecution has not established the alleged guilt against the appellant / accused beyond reasonable doubt and that the trial court could not have relied on the evidence of P.W.1, the mother of the deceased and P.W.3, Neighbour of P.W.1 for convicting the appellant.

6. Per contra, Mr.Hasan Mohamed Jinnah, learned Government Advocate (Crl.side) drew the attention of this court to the findings of the trial court, based on the evidence and submitted that the guilt against the appellant has been proved beyond reasonable doubt and the sentence imposed on the appellant was also proportionate.

7. The Doctor attached to the Stanley Medical College, Chennai, who conducted postmortem on the dead body of the deceased, Selvi was examined as P.W.8. The Doctor has found the following symptoms on the dead body of the deceased :

" An oblique incomplete ligature mark on the front of neck 25 cms in length and 1 cm in width. It is absent at the back of neck for a length of 10 cms. It is situated 6cms below the (L) Mastoid, 2 cms below the Right mastoid and 7 cms above the sternal notch. On dissection of the ligature mark, the tissues underneath are pale and dry. "

8. The postmortem certificate issued by the doctor was marked as Ex.P.9. As per the medical evidence and the report of the forensic expert, Ex.P.10, the deceased would appear to have died of asphyxia due to hanging. No poison was detected in the viscera.

9. As per the evidence of P.W.1, the mother of the deceased, even, prior to the date of the death of Selvi, the appellant / accused was causing cruelty on her daughter by beating and he was also a drunkard, suspecting the fidelity of the deceased was demanding dowry of Rs.10,000/- and 10 sovereign of jewels. According to her, the appellant / accused

caused cruelty and sent out the deceased, though he had married due to love affair with the deceased, even without the consent of the parents of the deceased. Subsequently, a complaint was lodged before the All Women Police Station, Kothavalchavady, against the appellant / accused for dowry harassment. As pacified by the police, P.W.1 sent her daughter, the deceased along with the appellant / accused, but he pledged the jewels presented to the deceased and again he sent back the deceased to her parents house. Then, as requested by the appellant / accused, P.W.1 made arrangement for separate living of the appellant and the deceased in a rented house nearby Vyasarpadi railway station and also provided a cart to carry fish and as advised by the panchayatdars, the deceased was sent to the house of the appellant / accused. On 13.03.1997, P.W.1 went to the house of the appellant, there she found her daughter and came to know that her daughter, the deceased was subjected to cruelty by the appellant / accused by beating, and on 18.03.1991, she was informed by the police, that her daughter Selvi had committed suicide by hanging, hence, she lodged the complaint, Ex.P.1 before the police.

10. P.W.2, one of the Panchayatdars, has stated that the deceased Selvi was sent to the house of the appellant / accused, at the request of the mother of the appellant, six months prior to the occurrence. Subsequently, he came to know that she had committed suicide by hanging and the said witness was not cross-examined.

11. It is seen that the evidence of P.W.3 would corroborate the evidence of P.W.1 that the appellant / accused was in the habit of beating the deceased, Selvi, suspecting the fidelity of the deceased, he was also a drunkard and due to the cruelty met out, the deceased Selvi refuse to go along with him, but the panchayatdars, P.W.2 and P.W.3 had pacified her and sent the deceased along with the appellant / accused and his mother. Though, P.W.4, turned hostile and did not support of the prosecution case, it does not create any suspicious circumstance in the prosecution case.

12. P.W.5 is one of the witnesses to the observation mahazar, Ex.P.3 and seizure mahazar, Ex.P.4. P.W.6 is the Tahsildar of Fort Thandayarpur Taluk, who conducted inquest on the dead body of Selvi. According to him, he examined panchayatdars and other witnesses during the inquest and recorded their statements. P.W.7 was P.A to the District Collector, Chennai, who sent his report to the Assistant Commissioner of Police for further action.

13. As per Ex.P.12, sketch prepared by the Assistant Commissioner and as per the evidence of mahazar witness and the observation mahazar, Ex.P.3, the deceased was found hanging at the residence of her matrimonial home. As per the medical evidence, the deceased died due to asphyxia by hanging.

14. It is not in dispute that the deceased Selvi had committed suicide by hanging at her matrimonial home. While, the appellant / accused was examined under Section 313 Cr.P.C, he has totally denied the

prosecution evidence against him, except his relationship with the deceased. As it is a case of dowry harassment and death of suicide at the residence of the appellant / accused, mere denial of prosecution evidence is not sufficient.

15. As held by the trial court, I am of the considered view that the prosecution has established the guilt against the accused beyond reasonable doubt to convict him under Section 498A and 206 IPC and the defence raised on behalf of the appellant / accused is not legally sustainable. As contended by the learned Government Advocate, I am of the view that the sentence imposed by the court below is also proportionate and hence, the appeal fails.

16. In the result, this Criminal Appeal is dismissed. As the appellant is on bail, the trial court shall take immediate steps to secure the appellant to undergo the balance period of the sentence imposed on him.

tsvn

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The VII Additional Sessions Judge
City Civil Court, Chennai.
2. -Do- Thro' The Principal Judge,
City Civil Court, Chennai
3. The Inspector of Police
Kodungaiyur Police Station, Chennai.
4. The Public Prosecutor
High Court, Chennai.
5. The Director General of Police
Chennai
6. The District Collector,
Chennai.

KLT(CO)
dcp/12.6.07

Cr1.A.No.416 of 2001